SBCivil Writ Petition No.4457/2006

Bhanwarlal
Vs.
State of Rajasthan & Ors.

Date of Order :: 23rd August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Pradeep Choudhary, for the petitioner.

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As a consequent to regular selection proceedings an appointment was given to the petitioner as Teacher Gr.III in Panchayat Samiti, Baytu District Barmer under an order dated 15.3.2005. At the time of appointment the petitioner submitted an affidavit to the authority competent stating therein that no criminal case is registered/pending against him before any police station/court for saddition or for an offence involving moral turpitude. After police verification it was found that atleast 17 criminal cases were lodged against the petitioner and he was also convicted for a term of one year for commission of an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Act of 1989”). Accordingly by order dated 18.7.2006 the District Education Officer (Elementary Education), Barmer cancelled the appointment of the petitioner. The validity of the order aforesaid is questioned by the petitioner in this petition for writ.

It is urged by counsel for the petitioner that the District Education Officer (Elementary Education), Barmer cancelled the order of appointment without having authority of law as the only course available to the respondents was to hold regular disciplinary proceedings under Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as “the Rules of 1958”) and then to take appropriate disciplinary action against the petitioner, if there was any doubt about his conduct. It is also urged by counsel for the petitioner that the petitioner has not committed any offence involving moral turpitude, therefore, merely for the reason that he was convicted for an offence under the Act of 1989, he could not have been discontinued from service.

Heard counsel for the petitioner and also perused the record.

By the order impugned the appointing authority of the petitioner cancelled appointment of the petitioner on the count that he suppressed material information with regard to his character. It is true that the petitioner submitted an affidavit that he is not facing any criminal trial for an offence involving moral turpitude or saddition but that was not sufficient. It was obligatory for the petitioner to disclose as to whether he has been

convicted or not and he should have also given all necessary details with regard to criminal cases pending against him. It appears that the petitioner intentionally suppressed material facts about his character by not giving details pertaining to criminal cases pending against him.

The petitioner is convicted for an offence under the Act of 1989, this itself proves his involvement in a case of moral turpitude. The proved involvement of the petitioner in the case of atrocity on caste basis is a stigma that bear moral turpitude.

Beside that the petitioner is facing cases for extortion and smuggling. A person of such conduct is not entitled in any event to be continued as a teacher. The respondents, therefore, by cancelling appointment of the petitioner have not committed any wrong.

I also not found any force in the contention of counsel for the petitioner that services of the petitioner could not be discontinued with retrospective effect. From perusal of the order impugned it is apparent that the appointment of the petitioner has been cancelled and he has already drawn salary for whatever period he has served the respondents. As such cancellation of appointment in any event will not effect any right of the petitioner.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

kkm/ps.